

HB3012



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3012

Introduced 2/23/2011, by Rep. JoAnn D. Osmond

SYNOPSIS AS INTRODUCED:

770 ILCS 40/49

from Ch. 82, par. 58

Amends the Innkeepers Lien Act. Provides that stable keepers shall have a lien for the cost of unpaid boarding and related expenses for a horse that is enforceable through the sale of the horse by public or private sale pursuant to provisions concerning notice, sale procedure, certificate of purchase, and application of sale proceeds.

LRB097 09872 AJ0 50030 b

A BILL FOR

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Innkeepers Lien Act is amended by changing
5 Section 49 as follows:

6 (770 ILCS 40/49) (from Ch. 82, par. 58)

7 Sec. 49. Stable keepers.

8 (a) As used in this Section:

9 (1) "Boarding or stabling agreement" means any
10 agreement, written or oral, that establishes or modifies
11 the terms, conditions, rules, or any other provisions
12 concerning the boarding or stabling of a horse.

13 (2) "Horse owner" or "owner" means a person, his or her
14 agent, successor, or assign, who owns a horse.

15 (3) "Keeping", "boarding", or "stabling" means
16 boarding and training services at a stable provided at the
17 horse owner's request including but not limited to:
18 services under a written boarding or stabling agreement;
19 services provided in response to a written request by the
20 horse owner; administering to the horse, the horse owner's
21 requested supplements or medications; trailering the horse
22 to a designated location; and assistance in conjunction
23 with veterinary, breeding, farrier, chiropractic, dental,

1 or other professional services for a horse.

2 (4) "Last known address" means that address provided by
3 the horse owner in the latest boarding or stabling
4 agreement, or the address provided by the horse owner in a
5 subsequent written notice of a change of address.

6 (5) "Stable" or "horse boarding facility" means any
7 real property designed and used for the purpose of
8 stabling, boarding, or keeping a horse.

9 (6) "Stable keeper" or "keeper" means the owner,
10 operator, lessor, or sublessor of a stable or horse
11 boarding facility, his or her agent, or any other person
12 authorized by him or her to manage the facility or to
13 receive rent from a horse owner under a boarding or
14 stabling agreement.

15 (b) Stable keepers and any persons shall have a lien upon
16 the horses, carriages, ~~and~~ harness kept by them at the stable
17 or boarding facility for the proper charges due for the keeping
18 thereof and expenses bestowed thereon at the request of the
19 owner, or the person having the possession thereof, plus other
20 charges, present or future, in relation to the horse boarded,
21 plus all fees and expenses incurred by the keeper to enforce
22 the lien, whether by public or private sale, to the extent
23 permitted under this Section.

24 (c) The lien provided under this Section is a possessory
25 lien which entitles the keeper to restrict the subject horse's
26 movement from the keeper's facility, except for only emergency

1 veterinary conditions or circumstances. Pursuant to this
2 Section, local law enforcement authorities notified of the
3 keeper's right to a possessory lien on the horse shall have the
4 authority, without a court order, to restrict the removal of
5 the horse from the keeper's facility despite the horse owner's
6 request or demand, until the keeper confirms to the that the
7 lien has been satisfied. Evidence of a lien that constitutes
8 notice to law enforcement authorities of the possessory lien
9 includes, but is not limited to, a written boarding agreement
10 in which the horse owner acknowledges that the keeper shall
11 have an automatic lien on the horse for the amount owed or the
12 unpaid invoices, which display the keeper's letterhead or other
13 identifying logo or insignia, issued by the keeper for boarding
14 the horse.

15 (d) Enforcement of the lien must be by public sale, unless
16 and only if the written boarding agreement provides a clear
17 authorization that the horse may be sold through a private
18 sale.

19 (e) Enforcement of the lien shall be carried out through a
20 public sale at which cash shall be paid by the highest bidder,
21 with the sale conducted by the sheriff of the county in which
22 the facility is located. The date, time, and place of the sale
23 shall be advertised by posting a written notice of the sale at
24 3 of the most public places in the township or municipality
25 where the horse is boarded. The posting may be done at any
26 time, but shall not be done less than 21 days before the sale.

1 Alternatively, the sale may be advertised by placing a sale
2 notice stating the date, time, and place of the sale for 3
3 consecutive weeks in a weekly or daily newspaper of general
4 circulation distributed in the township or municipality where
5 the horse is boarded. After the auctioneer and sheriff's fees,
6 advertising costs, and any legal fees and costs incurred as
7 part of the lien enforcement process are paid, the balance
8 shall be paid to the keeper. In the event that the amount of
9 the sale price recovered by the keeper, less all auctioneer and
10 sheriff's fees, advertising costs, and any legal fees and costs
11 incurred in connection with the lien enforcement exceeds the
12 amount of the lien, the surplus shall be paid to the horse
13 owner. At the time that the surplus funds are received by the
14 horse owner, the ownership papers to the horse shall be
15 forwarded by the horse owner to the public sale buyer within 7
16 days after receipt of the surplus funds. In the event the horse
17 owner cannot be found after reasonable attempts to locate the
18 owner have been made, any surplus funds shall be paid to the
19 keeper's chosen equine rescue, rehabilitation, or retirement
20 facility or organization. At the time of the sale conducted
21 pursuant to this Section, the sheriff shall, upon payment of
22 the sale price, provide a public sale certificate of purchase
23 of the horse to the highest bidder showing that the highest
24 bidder is the new legal owner of the horse. As of the time of
25 the delivery of the public sale certificate of purchase, the
26 original horse owner shall have no claim of right, title, or

1 interest in the horse.

2 (f) Enforcement through a private sale shall only be
3 permitted if the keeper possesses an original boarding
4 agreement signed by the horse owner that acknowledges that the
5 boarding facility shall have an automatic lien on the horse for
6 the amount owed and that a private sale may be had to satisfy
7 the lien, but only after notice is sent to the horse owner's
8 last known mailing address by first class certified or
9 registered mail, e-mail address, and fax number at least 3
10 weeks prior to the date of any private sale. If only the
11 address, e-mail address, or fax number is known by the keeper
12 and the notice is sent to that known address, e-mail address,
13 or fax number, the notice shall be considered to have been
14 satisfactorily sent under this Section. At the time of the sale
15 conducted pursuant to the requirements of this subsection, the
16 keeper shall, upon payment of the sale price, provide a private
17 sale certificate for the horse to the buyer that certifies that
18 the requirements of this subsection were met and that the buyer
19 is the legal owner of the horse. As of the time of the delivery
20 of the private sale certificate, the original horse owner shall
21 have no claim of right, title, or interest in the horse. The
22 application of the sale proceeds shall be as provided in
23 subsection (e).

24 (g) A lien created pursuant to this Section attaches as of
25 the date the horse is brought to the stable and shall be
26 superior to any other lien or security interest except for a

1 statutory lien or security interest which is perfected through
2 a proper filing prior to the beginning of the boarding.

3 (Source: R.S. 1874, p. 665.)